



## **375075 - He sold a computer, and a few days later the purchaser claimed that it was defective; does he have the right to cancel the deal?**

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### **the question**

I bought an item (a computer) from someone, and they used it for approximately one month, then I decided to sell it. Someone bought it from me, and when I delivered the item to him, I told him to test it, but he said that he trusted the product. Three days later, he called me and told me that the item was defective, but I had used it for a month and had not found any defect in it. So I decided to contact the first owner, and he told me that he had owned it for five years and had not found any defect in it. My question is: Does the person who made the claim have the right to return the item and get his money back in full?

### **Detailed answer**

Praise be to Allah.

Firstly: If it is proven that the item is faulty, the purchaser has the choice of returning the item or keeping it and taking the difference. What is meant is the difference between the value of the defective product and its value if it is without defects, which is to be deducted from the price.

Please see the answer to question no. [258447](#).

Secondly:

If the seller and purchaser disagree as to when the defect developed, and it is possible that either of them may be correct, then what the seller says is to be accepted if he swears an oath to that effect, according to the more correct view, which is the view of the majority of scholars, apart from the Hanbalis.

But if the purchaser's claim cannot be correct, such as if it becomes clear that the defect



developed after the transaction was concluded, then the seller's word is to be accepted, without him having to swear an oath to that effect.

If it is possible that the defect could have developed before or after the transaction was concluded, then the seller's word is to be accepted, if he swears an oath to that effect.

It says in *Zad al-Mustaqni`*: If they disagree as to whose possession the item was in when the defect developed, then the purchaser's word is to be accepted if he swears an oath to that effect. But if the word of only one of them is credible, it should be accepted without an oath.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) said: With regard to this issue, the author (may Allah have mercy on him) said that it can only be one of two scenarios:

The first scenario is when what one of them claims cannot possibly be true. In this case, the claim of the one whose words cannot be false is to be accepted.

The second scenario is when there is a possibility that the purchaser's claim is true, in which case the purchaser's word is to be accepted.

An example of the seller's claim being implausible is an extra finger on a slave. So if someone buys a slave and finds that he has an extra finger, so he returns him, but the seller says: This defect appeared when he was with you, and the purchaser says: That is impossible – in this case, the purchaser's word is to be accepted, because it is not possible for the slave to have developed an extra finger. If that were possible, then it would be something that could happen to anyone. And if we accept the purchaser's word, there should be no stipulation that he should swear an oath, because there is no need for that.

An example of the purchaser's claim being implausible is if he buys an animal, then wants to return it, and the defect in question is a wound that the purchaser claims to have found on the animal. If we examine the wound and find that it is still bleeding as it is a fresh wound, but the sale was done a week ago, then the seller's claim is valid and there is no need for him to swear an oath, because it is not possible that this wound could have occurred before the sale.



If both claims are plausible, such as if an animal is lame or there is some spoilage in foodstuff and the like, then the author says that the words of the purchaser should be accepted. The reason for that is that the defect means that the item received is imperfect. In principle, we have to assume that it was received in perfect condition, so the purchaser's claim is to be regarded as valid, as the Prophet (blessings and peace of Allah be upon him) said: "The burden of proof is on the claimant and an oath is required of the one who denies that." So in this scenario, the seller is saying: I sold this item to you free of defects, whereas the purchaser is saying: You sold it to me with defects.

The issue is ambiguous, therefore the purchaser's claim is to be accepted, because in principle we assume that he received it with defects, so there is a claim against the purchaser and the seller is the one who is making the claim. This is one of the views narrated in the madhhab of Imam Ahmad (may Allah have mercy on him).

The other scholarly view is that the seller's word is to be accepted. This is the view of the three imams (may Allah have mercy on them) and it is the more correct view, based on reports and rational thinking. As for reports, the Prophet (blessings and peace of Allah be upon him) said: "If the two parties to a transaction disagree, the matter is to be settled on the basis of the seller's words, or they should cancel the deal." This is a clear, unambiguous text, because the purchaser is claiming that the defect was already there. Even according to the jurists' guidelines, the claimant is the one who, if he keeps quiet, the matter is settled; in the case under discussion here, the purchaser is the one who, if he keeps quiet, the matter is settled. The Messenger (blessings and peace of Allah be upon him) said: "The burden of proof is on the claimant" and the claimant in this case is undoubtedly the purchaser. Hence we say to him: Bring proof that the defect was already there when the item was with the seller.

As for rational thinking, that is because, in principle, there is no defect and the item is sound, and the claim that the defect was already there before the transaction was concluded is contrary to this principle. If we do not accept the purchaser's claim regarding the cause of the defect, then by the same token, we do not accept his claim as to when it developed. (*Ash-Sharh al-Mumti`*, 8/324).

So the defect mentioned by the purchaser should be examined, and if there is any indication that



it developed before you sold it to him, then he has the option of cancelling the deal. But if there is any indication that it developed when it was in his possession, then he has no option of cancelling the deal, and the transaction is binding, unless you agree to let him off and cancel the deal.

If it is possible that the defect could have developed either before or after the sale, then your words are to be accepted so long as you will swear an oath, so you should swear an oath affirming that when you sold it, there was no defect in it, but if you do not swear an oath, then he has the option of cancelling the deal.

And Allah knows best.